

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation

Master File C.A. No.
1:00-1898 (SAS)
MDL 1358

This Document Relates to:

Basso, et al. v. Sunoco, Inc., et al., No. 03-Civ-9050

Tonneson, et al. v. Sunoco, Inc., et al., No. 03-Civ-8248

EXXON MOBIL CORPORATION'S PROPOSED VERDICT FORM

According to the principles of law as charged by the Court and the facts as you find them, please answer the following questions:

I. Liability

A. Alleged Release from the Mobil Branded Service Station

1. Have plaintiffs established by a preponderance of the evidence that there was a vapor release of gasoline from the Mobil branded service station in Fort Montgomery, New York that caused MTBE to contaminate each plaintiff's well?

YES _____ NO _____

2. Have plaintiffs established by a preponderance of the evidence that there were customer spills of gasoline at the Mobil branded service station in Fort Montgomery, New York that caused MTBE to contaminate each plaintiff's well?

YES _____ NO _____

If your answer is "Yes," to either question 1 or 2, continue to question 3. If your answer to both questions was "No," proceed no further and have the foreman sign on the last page of the verdict sheet..

3. If you answered “yes” to questions 1 or 2, please indicate the percentage you find that each of the spills contributed to the contamination in each of the plaintiff’s wells (the total must equal 100%):

Bogardus: Vapor Release: _____%

Customer Spills: _____%

Other Source: _____%

Boyce Vapor Release: _____%

Customer Spills: _____%

Other Source: _____%

Buchholz Vapor Release: _____%

Customer Spills: _____%

Other Source: _____%

Burley Vapor Release: _____%

Customer Spills: _____%

Other Source: _____%

Camacho Vapor Release: _____%

Customer Spills: _____%

Other Source: _____%

B. Product Liability Claim

4. Have plaintiffs established by a preponderance of the evidence that gasoline with MTBE is a defective product?

YES _____ NO _____

If your answer is "Yes," continue to question 5. If "No," please skip questions 5 - 6 and continue by answering question 7.

5. Have plaintiffs established by a preponderance of the evidence that the defect was a "substantial factor" that caused MTBE to impact their wells?

YES _____ NO _____

6. Have Plaintiffs established by a preponderance of the evidence that there was a feasible alternative to the use of MTBE in gasoline to meet the requirements of the Clean Air Act?

YES _____ NO _____

C. Emotional Distress Due to Fear of Future Injury

7. Have plaintiffs established by a preponderance of the evidence that they were exposed to MTBE?

YES _____ NO _____

If your answer to question 7 is "Yes," continue to questions 8 through 14. If your answer to question 7 is "No," please skip questions 10 through 16 and continue by answering question 15.

8. Has plaintiff, Keith Bogardus, established by a preponderance of the evidence that he has DNA adducts caused by MTBE?

YES _____ NO _____

9. Has plaintiff, Sandra Bogardus, established by a preponderance of the evidence

that she has DNA adducts caused by MTBE?

10. Has plaintiff, Donna Boyce, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES _____ NO _____

11. Has plaintiff, Joan Buccholz, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES _____ NO _____

12. Has plaintiff, Ronald Buccholz, established by a preponderance of the evidence that he has DNA adducts caused by MTBE?

YES _____ NO _____

13. Has plaintiff, Anna Burley, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES _____ NO _____

14. Has plaintiff, Stacey Camacho, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES _____ NO _____

D. Trespass Claim

15. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation caused the MTBE to be released from the Mobil branded service station in Fort Montgomery, New York?

YES _____ NO _____

If your answer is "Yes," continue to questions 16 through 20. If "No," please skip questions 16 through 20 and continue by answering question 21.

16. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Bogardus' well?

YES _____ NO _____

17. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Boyce well?

YES _____ NO _____

18. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Buccholz's well?

YES _____ NO _____

19. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Burley's well?

YES _____ NO _____

20. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Camachos' well?

YES _____ NO _____

E. Navigation Law Claim

21. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation caused the MTBE to be released from the Mobil branded service station in Fort Montgomery, New York?

YES _____ NO _____

II. Compensatory Damages

A. Property Damage:

22. If you answered "yes" to Questions 4, 5 and 6, 15 or 21 and find that plaintiffs, Keith and Sandra Bogardus, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property
before MTBE was detected: \$ _____

Amount to perform necessary repairs
the property: \$ _____

Fair Market Value of the property
“as is” without repair today: \$ _____

23. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Donna Boyce, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property
before MTBE was detected: \$ _____

Amount to perform necessary repairs
the property: \$ _____

Fair Market Value of the property
“as is” without repair today: \$ _____

24. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Joan and Ronald Buchholz, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property
before MTBE was detected: \$ _____

Amount to perform necessary repairs
the property: \$ _____

Fair Market Value of the property
“as is” without repair today: \$ _____

25. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Anna Burley, should receive a monetary award for property damage, please provide the

following:

Fair Market Value of the property
before MTBE was detected: \$ _____

Amount to perform necessary repairs
the property: \$ _____

Fair Market Value of the property
“as is” without repair today: \$ _____

26. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Stacey Camacho, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property
before MTBE was detected: \$ _____

Amount to perform necessary repairs
the property: \$ _____

Fair Market Value of the property
“as is” without repair today: \$ _____

B. Emotional Distress Due to Fear of Future Injury:

27. If you answered “yes” to Question 8, state the amount of damages, if any, that you award to the plaintiff, Keith Bogardus, for emotional distress due to fear of future injury:

\$ _____

28. If you answered “yes” to Question 9, state the amount of damages, if any, that you award to the plaintiff, Sandra Bogardus, for emotional distress due to fear of future injury:

\$ _____

29. If you answered “yes” to Question 10, state the amount of damages, if any, that you award to the plaintiff, Donna Boyce, for emotional distress due to fear of future injury:

\$ _____

30. If you answered “yes” to Question 11, state the amount of damages, if any, that you award to the plaintiff, Joan Buchholz, for emotional distress due to fear of future injury:

\$ _____

31. If you answered “yes” to Question 12, state the amount of damages, if any, that you award to the plaintiff, Ronald Buchholz, for emotional distress due to fear of future injury:

\$ _____

32. If you answered “yes” to Questions 13, state the amount of damages, if any, that you award to the plaintiff, Anna Burley, for emotional distress due to fear of future injury:

\$ _____

33. If you answered “yes” to Question 14, state the amount of damages, if any, that you award to the plaintiff, Stacey Camacho, for emotional distress due to fear of future injury:

\$ _____

II. Punitive Damages

34. If you answered “yes” to any of Questions 4, 5 and 6 do you find that defendant, Exxon Mobil Corporation acted with malice or reckless indifference to plaintiff’s rights?

YES _____ NO _____

35. If you answered “yes” to Question 34, state the amount of punitive damages, if any, that you award to the each plaintiff:

Keith Bogardus \$ _____

Sandra Bogardus \$ _____

Donna Boyce \$ _____

Joan Buchholz \$ _____

Ronald Buchholz \$ _____

Anna Burley \$ _____

Stacey Camacho \$ _____

Please have the foreperson sign and date this Verdict Sheet, and advise the Court by note that you have reached a verdict.

Dated: March __, 2009
New York, New York

Signed:

FOREPERSON